



Livingston City Commission Minutes

October 01, 2024

5:30 PM

City – County Complex, Community Room

Join Zoom Meeting

<https://us02web.zoom.us/j/85934361030?pwd=SjICWlVWVDhlL2N5NDVTUXFZWnQ1dz09>

Meeting ID: 859 3436 1030

Passcode: 026211

1. Call to Order

Chair Kahle called the meeting to order at 5:30 PM.

2. Roll Call

Present:

- Chair Kahle
- Vice-Chair Nootz
- Commissioner Willich
- Commissioner Lyons (arrived later)

Excused:

- Commissioner Schwarz

City Staff in Attendance: City Manager Grant Gager, Policy Analyst Greg Anthony, Asst. Chief of Police Andrew Emanuel, Public Works Director Shannon Holmes, Finance Director Paige Fetterhoff

3. Public Comment

Individuals are reminded that public comments should be limited to item over which the City Commission has supervision, control jurisdiction, or advisory power (MCA 2-3-202)

- Jay Keifer discussed his thoughts about the Library Board Meeting.
- Patricia Grabow expressed her thoughts for maintaining downtown businesses.
- Linde Gibson spoke about the Fire Dept. proclamation and delivered a silly joke.

The City Manager addressed the comments about the Library Board and stated the City has no roll in that board and mill levy.

4. Consent Items

A. APPROVAL OF MINUTES FROM SEPTEMBER 17, 2024, REGULAR MEETING

- B. APPROVAL OF CLAIMS PAID 9/12/24 - 9/25/24**
- C. STREET SWEEPER**
- D. 1 TON DUMP**
- E. AGREEMENT 20119 WITH MONTANA DEPARTMENT OF TRANSPORTATION FOR FUNDING OF MONTANA ST. STPU PROJECT**
- F. AGREEMENT 20120 WITH BNSF RAILWAY FOR THE LEASE OF LAND.**

Vice-Chair Nootz pulled C, D and F for discussion.

Motion to approve items A, B, and E was made by Vice-Chair Nootz and seconded by Commissioner Lyons. The motion passed unanimously.

For Consent Items C and D Vice-Chair Nootz requested clarification regarding the city's long-term vehicle replacement strategy, specifically how the city manages the procurement of multiple large vehicles within a short period. She inquired whether future purchases could be spread out more evenly to avoid the need for significant expenditures within one fiscal year.

The City Manager responded that while there is a concentrated need for vehicle purchases this year (including the previously approved garbage trucks), this is part of a catch-up strategy due to delayed vehicle replacements in the past. He explained that the vehicles being purchased for public works are funded by different enterprise funds, such as the street, water, and solid waste funds, which allows the city to spread costs across multiple budgets. The City Manager assured the Commission that moving forward, the goal is to establish a more consistent and staggered vehicle replacement schedule.

Vice-Chair Nootz also raised questions about the procurement process for these large-ticket items, asking how the city ensures competitive bidding and how decisions are made regarding which vendor to purchase from.

The City Manager detailed the city's procurement guidelines, explaining that items under \$10,000 are handled at the departmental level, while items between \$10,000 and \$50,000 require his approval with at least three quotes being solicited. Purchases over \$50,000, like the street sweeper and dump truck, go through a formal competitive bidding process or are acquired through a pre-negotiated state purchasing contract. He added that the street sweeper and dump truck were acquired through cooperative purchasing agreements that give the city access to favorable pricing without requiring an independent bid process.

Motion to approve **items C and D** was made by Vice-Chair Nootz, seconded by Commissioner Willich, and passed unanimously.

For Consent Item F Vice-Chair Nootz expressed concerns regarding environmental risks associated with the land being leased from BNSF Railway. She noted that public concerns had been raised about possible contamination in the area, given the land's proximity to railroad tracks, and requested further information on the environmental assessment conducted for the site.

The City Manager reassured the Commission that a Phase 2 Environmental Assessment had been completed by Four Ranges, a city partner. The results indicated that while some contaminants were present, they were at or below naturally occurring levels for this region of Montana. He explained that the lease agreement is primarily for a parking lot, which actually mitigates potential contamination risks, as the land will be capped with asphalt. Furthermore, the

city's liability for any pollution-related issues is minimized by the lease agreement, which requires BNSF Railway to retain significant responsibility. The city also holds adequate pollution liability insurance to cover any potential claims, with coverage levels exceeding the minimum required by the agreement.

Vice-Chair Nootz also noted that the address listed in the agreement for correspondence was the Public Works Department's address and suggested it be updated to reflect the City Manager's office, given the nature of the project.

The City Manager acknowledged this oversight and confirmed that the address would be corrected to ensure proper routing of communications.

The City Manager gave an update of the project stating it is another step toward the Wellness Center and is one of the last steps the city will date for the next several years. The Foundation is in a fund raising process and about 1million away of their overall goal. This fall the Foundation is hopeful to initiate site work for the project.

Vice-Chair asked the Foundation to be transparent to the community with what is going on with the project and give the public opportunity to speak about the project.

The motion to approve **item F** was made by Vice-Chair Nootz, seconded by Commissioner Lyons, and passed unanimously.

5. Proclamations

A. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA RECOGNIZING FIRE PREVENTION WEEK 10/6/24 - 10/12/24 IN LIVINGSTON MONTANA

Chair Kahle read aloud the proclamation, which recognizes the contributions of Cub Scouts in the community and encourages all citizens to honor their commitment to service, leadership, and citizenship. The proclamation highlighted the importance of instilling values of responsibility, teamwork, and community engagement in young people through programs like Cub Scouts. A group of Cub Scouts from Pack 552 was in attendance, proudly promoting their ongoing annual popcorn sales fundraiser. Chair Kahle encouraged the community to support their efforts, noting that the funds raised help support the Scouts' activities and community projects. The Commission and attendees applauded the Scouts for their dedication.

B. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA RECOGNIZING OCTOBER 16, 2024 AS CUB SCOUT DAY IN LIVINGSTON MONTANA

Chair Kahle read the proclamation, which encouraged residents to take action by checking the batteries in their smoke alarms and making sure they have working fire alarms in every bedroom and common area of their homes. The proclamation also noted the theme for Fire Prevention Week, "Smoke Alarms: Make Them Work for You!" stressing the importance of being vigilant and prepared in case of an emergency.

6. Scheduled Public Comment

No scheduled public comments.

7. Action Items

A. PUBLIC HEARING FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROJECTS

The City Manager opened the public hearing by explaining the purpose of the hearing: to solicit public input on potential projects for a Community Development Block Grant (CDBG). The hearing provides an opportunity for the Commission and community members to discuss funding priorities, particularly for projects aimed at housing development and infrastructure improvements. One potential project highlighted by the City Manager involved a grade-separated rail crossing to improve safety and traffic flow in the city, which has been a concern for residents for some time. Another key focus was the development of affordable housing options.

- Linde Gibson expressed the need to help the homeless and more affordable housing will help the community.
- Patricia Grabow expressed the idea of using hydrogen trains for living.

Commissioner Willich talked about two parts of affordability is jobs and housing and feels like that is a good focus point for the grant.

Commissioner Lyons and Chair Kahle asked for clarification on this grant.

The City Manager stated Planning grants are up to 50,000 and Construction grants are up to 750,000. The City was award a Construction Grant for water and sewer improvements at the View Vista Community. Currently we do not have any active Planning grants and the deadline is November 1st.

Vice-Chair Nootz shared the same thoughts as Commissioner Lyons, and further stated she is for a rail crossing.

The public hearing was closed after Commissioner discussion. No formal action was taken at this time, as the hearing was informational, and the city will continue gathering input before proceeding with the application process.

6:46 PM Vice-Chair Nootz motioned for a 10 minute break seconded by Commissioner Lyons.

B. ORDINANCE 3055: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 2 OF THE LIVINGSTON MUNICIPAL CODE, ENTITLED GOVERNMENT AND ADMINISTRATION, TO CONFORM NOTICING PROVISIONS TO STATE LAW, REFLECT THE EXISTENCE OF THE CITY CLERK POSITION, MODIFY CITY COMMISSION VOTING RULES, ACKNOWLEDGE A NEW FEDERAL HOLIDAY AND MAKE TECHNICAL AND CONFORMING CHANGES.

The City Manager stated this is an ordinance amending Chapter 2 of the Livingston Municipal Code, including updating noticing provisions, recognizing the City Clerk position, modifying voting rules, and acknowledging a new federal holiday. The proposed amendments include several changes, most notably the modification to the City Commission voting rules. Under the amended

ordinance, a majority vote of the Commissioners present at the meeting would be required for approval or rejection of an item, instead of requiring a majority vote of the entire Commission. This change was introduced to address situations where there may be an absence of one or more Commissioners, allowing decisions to be made with the majority of those in attendance.

Commissioner Lyons asked for clarification on a 4 member voting being 2 to 2.

The City Manager stated the items have neither passed nor failed and would show up on a subsequent agenda depending on what the item is, or scheduling a special meeting to meet a deadline.

Vice-Chair Nootz asked for legal opinion in plain language on section 13.44 about affirmative majority and trying members of council.

The legal opinion provided by City Attorney Jon Hesse clarified that certain actions, such as those related to disqualification of members or legal proceedings involving commissioners, may require a supermajority vote under specific circumstances. However, for standard Commission decisions, the majority of those present was deemed sufficient.

Chair Kahle sought clarification on what would happen in the case of a tie vote.

The City Manager reiterated that the item neither passed nor failed and would show up on a subsequent agenda depending on what the item is, or scheduling a special meeting to meet a deadline.

The Commissioners, City Manager, and City Attorney ran through several scenarios.

A motion to approve was made by Commissioner Willich, seconded by Commissioner Lyons.

Public Comment was offered by:

- Jay Keifer expressed his thoughts on the scenarios that were discussed.

Chair Kahle stated on behalf of the Commission that they are doing their very best to clarify this ordinance to the best of their ability to keep the Commission and the City of Livingston safe and to avoid legal repercussion.

Chair Kahle entered deliberation and continued to discuss tie votes and abstaining votes.

Vice-Chair Nootz brought forward concerns about majority and its definition in some scenarios, and would like to see some protections built in to maintain good government for big item votes, and ultimately feels that abstaining from a vote should not be considered a no.

Commissioner Lyons agreed with Vice-Chair Nootz and some things, and they discussed scenarios back and forth.

Commissioner Willich suggested adding a section that indicates those need to be a majority of the Commission with 3 vote maximum.

Vice-Chair Nootz agreed with Commissioner Willich. She stated she values public trust and appreciates good process and that is what she wants to achieve in this ordinance and part of City Code.

The Commission took vote to approve the motion to approve the ordinance as written tonight.

Chair Kahle voted for

Vice-Chair Nootz voted against

Commissioner Lyons voted for

Commissioner Willich voted against.

Chair Kahle motioned to continue the hearing and 2nd reading of Ordinance 3055 to October 15th seconded by Commissioner Lyons. Unanimously approved.

C. RESOLUTION NO. 5147: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2023-2024, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$244,092 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$1,801.

The City Manager explained that the budget amendment was necessary to address adjustments in various city departments and projects. The largest component of the amendment involved appropriations totaling \$244,092. These adjustments included reallocating funds for equipment purchases, infrastructure projects, and personnel costs that were not originally accounted for in the adopted budget.

A motion to approve the resolution was made by Vice-Chair Nootz, seconded by Commissioner Willich. Passed unanimously.

D. RESOLUTION NO. 5148: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA UPDATING THE FEE SCHEDULE AND CHARGES FOR ALL CITY DEPARTMENTS.

The City Manager introduced the resolution, explaining that it was part of the city's regular review of fees charged by various departments. He noted that certain fees, including those for public services, utility rates, and permit applications, had not been updated for several years.

Vice-Chair Nootz pointed out a fee under the Transfer Station sections that needed corrected. She also asked about disposal of tires and they are charged by tire and by ton.

The City Manager and Public Works Director Shannon Holmes answered all Transfer Station questions to clarify any concerning fees and descriptions, and stated that typos would be corrected relating to costs at the Transfer Station.

Vice-Chair Nootz asked for more clarification on facility rentals and there being a resident fee and non-resident fee.

The City Manager stated the price to rent a facility is tied to staff time and explained the difference in fees for different facilities. He answered the questions about resident vs. non-resident and stated that fees for residents are less due to property tax paid to the City of Livingston.

Vice-Chair Nootz thanked Recreation Director Maggie Tarr for fee difference in resident vs. non-resident. She asked for clarification on the late fee under animal control.

The City Manager stated this is a late fee for pet licensing. He advised that the animal control section is under review for updates as well.

Chair Kahle asked about spayed/neutered pets and fees associated with that and wondered about changing the time frame that pets are spayed/neutered since vets are now recommending later ages for pets to have this done.

Vice-Chair Nootz motioned to approve the resolution with the following edits: public right-of-way will be \$100, not \$100 per day, manure and straw as \$65/ton not \$365/ton, refrigerators and freezers with no Freon and not free of food debris should be \$115.29/ton, refrigerators, freezers, and air conditioners with Freon are \$60/unit plus \$115.29/ton, passenger tires will add a slash between \$115.29 and ton seconded by Commissioner Willich.

Vice-Chair Nootz expressed appreciation to staff for putting this all together.

Commissioner Willich expressed it was great to see very few edits, which indicates all the hard work staff does to work on this.

Chair Kahle expressed feeling the same as Vice-Chair Nootz and Commissioner Willich

Unanimously passed.

E. CLOSED SESSION TO DISCUSS LEGAL STRATEGY PURSUANT TO MCA 2-3-203(4)(A)

The City Manager indicated since they do not have full membership of the City Commission he offered that the Closed Session is not necessary of immediate need and suggested to move it to the next meeting.

8. City Manager Comment

The City Manager expressed thanks the City Commissioner for their thoughtful deliberation and looks forward to the continued conversation regarding Chapter 2. He thanked staff and City Commission for the update on the Fee Schedule. He reminded he will be away at conference the rest of the week.

9. City Commission Comments

Commissioner Willich reminded that October Fest is October 12th and hopes to see folks there.

Commissioner Lyons expressed excitement for the thoughtful deliberations among a team that respects each other, and feels that part makes being a Commissioner fun.

Vice-Chair Nootz agreed with Commissioner Lyons, and thanked Commissioner Willich for his information last meeting about fraud.

Chair Kahle reminded she will also be at conference this week. She reminded that today is the last day to apply for the property tax rebates, and also reminded about the Lead Service Questionnaire due by October 16th.

10. Adjournment

8:31 PM Commissioner Lyons motioned to adjourn the meeting seconded by Commissioner Willich. Passed unanimously.

Calendar of Events

Supplemental Material

Notice

- **Public Comment:** The public can speak about an item on the agenda during discussion of that item by coming up to the table or podium, signing-in, and then waiting to be recognized by the Chairman. Individuals are reminded that public comments should be limited to items over which the City Commission has supervision, control, jurisdiction, or advisory power (MCA 2-3-202).
- **Meeting Recording:** An audio and/or video recording of the meeting, or any portion thereof, may be purchased by contacting the City Administration. The City does not warrant the audio and/or video recording as to content, quality, or clarity.
- **Special Accommodation:** If you need special accommodations to attend or participate in our meeting, please contact the Fire Department at least 24 hours in advance of the specific meeting you are planning on attending.